THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO. 18785 OF 2006
DATE: 5.11.2007

Between:

M. Chandrakala D/o Ram Das aged 31 years, Hindu, Occ. Ex. Conductor, Warangal District.

…Petitioner

AND

1. The Depot Manager, APSRTC, Warangal II Deport , Warangal District and one another.

….Respondents

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HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No. 18785 of 2006

Order:

Assailing the award dated 23.02.2006, passed by the Labour Court, Warangal, in I.D. No. 31 of 2003, the petitioner filed the present writ petition.

The petitioner was appointed as Conductor in the 1st respondent-Corporation in the year 1998. On 12.04.2000, while the petitioner was conducting the bus on route Singaram to Katrapally, a check was exercised, and the checking officials having found certain cash and ticket irregularities, issued charge memo to the petitioner. The petitioner submitted her explanation to the charge memo. Dissatisfied with the explanation, the 1st respondent-Corporation placed the petitioner under suspension, and issued a charge sheet. The Enquiry Officer, who conducted enquiry into the charges framed against the petitioner, submitted report holding that the charges are proved. Based on the enquiry report, the 1st respondent, namely the Depot Manager, issued notice to the petitioner, calling upon her to show cause as to why she should not be removed from service. The petitioner submitted her explanation thereto. However, vide proceedings dated 06.09.2000, the 1st respondent removed the petitioner from service. Assailing the order of removal, the petitioner filed appeal and review petition before the appellate and review authorities, and the same were rejected, by orders dated 27.06.2001 and 12.12.2002 respectively. Thereafter, she raised an industrial dispute in I.D.

No. 31 of 2003 before the Labour Court, which by award dated 23.02.2006, dismissed the same, upholding the orders of the

disciplinary authority. Assailing the said award, the petitioner filed the present writ petition.

The learned counsel for the petitioner submitted that the petitioner did not commit any cash and ticket irregularities. The passengers, who boarded the bus at Stage No. 9, quarreled with the petitioner, and thereby delayed payment of fare amount, and therefore, she could not issue tickets to them in time, and in the meanwhile the check was exercised. She further submitted that except the evidence of one A.N. Reddy, T.T.I., there is no other evidence to support the case of the 1st respondent-Corporation. She submitted that the Labour Court, without properly appreciating the material on record, erred in confirming the order passed by the disciplinary authority, and at any rate, she contended that the punishment of removal from service imposed on the petitioner is disproportionate to the proved charges. She, thus, prayed that the impugned order be set aside and the petitioner be reinstated into service with full backwages.

On the other hand, the learned Standing Counsel for the 1st respondent-Corporation submitted that the petitioner committed serious cash and ticket irregularities, and the charges leveled against the petitioner were held proved by the Enquiry Officer in the departmental enquiry, and based on the enquiry report, the disciplinary authority imposed punishment of removal from service on the petitioner, which was confirmed by the Labour Court. Having regard to the nature of the proved charges, the punishment of removal from service imposed on the petitioner, cannot be said to be disproportionate, warranting interference therewith by this Court in exercise of its jurisdiction under Article 26 of the Constitution of India. He, thus, prayed that the writ petition be dismissed.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the 1st respondent-Corporation and perused the award of the Labour Court.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. It is within these parameters, the award of the Labour Court has to be examined.

As can be seen from the award of the Labour Court, the domestic enquiry conducted by the 1st respondent-Corporation was held valid by order of the Labour Court dated 17.12.2004. The petitioner was charge sheeted alleging that she failed to observe the rule "Issue and Start", and that she, having collected requisite fare of Rs. 3/- each from seven passengers, failed to issue tickets to them, and she also failed to close the ticket tray numbers of all denominations in the S.R. These charges leveled against the petitioner, stood proved in the departmental enquiry. The disciplinary authority, considering the nature of the proved charges, imposed punishment of removal from service. The Labour Court, upon analyzing the evidence before it, coupled with the statements of the passengers and the admissions made by the petitioner in her spot explanation, found that the petitioner committed cash and ticket irregularities, and accordingly held that the punishment of removal from service imposed by the disciplinary authority is proportionate to the proved charges, and I see no reason whatsoever to interfere therewith, more so when the charges leveled against the petitioner stood proved in the departmental enquiry and when the petitioner failed to point out any infirmities in the departmental enquiry.

In **Divisional Controller, KSRTC (NWKRTC) v. A.T. Mane**[1], the apex Court held that once a domestic tribunal based on evidence comes to a particular conclusion, normally it is not open to the appellate tribunals and courts to substitute their subjective opinion in

the place of the one arrived at by the domestic tribunal. On the question of quantum of punishment, the apex Court held as follows:

> Coming to the question of quantum of punishment, one should bear in mind the fact that it is not the amount of money misappropriated that becomes a primary factor for awarding punishment, on the contrary, it is the loss of confidence which is the primary factor to be taken into consideration.

In the instant case, the charges leveled against the petitioner stood proved, and having regard to the gravity and seriousness of the proved charges, the 1st respondent-Depot Manager having lost confidence in the petitioner, removed her from service. In such circumstances, I am of the considered opinion that no interference is called for with the impugned award passed by the Labour Court, which upheld the punishment of removal from service imposed on the petitioner by the disciplinary authority.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 05.11.2007

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[1] (2005) 3 SCC 254